

DUNCAN MILLER

IBLA 75-189

Decided March 3, 1975

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, raising the rental and requiring the posting of a bond for noncompetitive oil and gas lease NM-A-18552 (Texas).

Affirmed.

1. Oil and Gas Leases: Generally--Oil and Gas Leases: Known Geological Structure

A determination by the Geological Survey that lands are within an undefined known geologic structure will not be disturbed in the absence of a clear showing that the determination was improperly made.

2. Oil and Gas Leases: Rentals--Oil and Gas Leases: Known Geological Structure

Where the Geological Survey has determined that any part of the lands described in a noncompetitive oil and gas lease is within an undefined known geologic structure, the lessee is required to pay increased rental in accordance with 43 CFR 3103.3-2(b)(1), and to furnish a lease bond as required by 43 CFR 3104.1.

APPEARANCES: Duncan Miller, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Duncan Miller appeals from the September 19, 1974, decision of the New Mexico State Office, Bureau of Land Management, which notified Miller that the annual rental on noncompetitive acquired lands oil and gas lease NM-A-18552 (Texas) would be increased

because some of the land described in the lease had been determined by the Geological Survey to be within an undefined known geologic structure, 43 CFR 3103.3-2(b). 1/ The decision also required Miller to post a \$1,000 lease bond, 43 CFR 3104.1(b). 2/ The lease had been issued as of June 1, 1973, for Tracts 401 and 402, in Land Utilization Project 25, Wise County, Texas.

The Geological Survey, in a memorandum dated August 19, 1974, informed BLM that an oil discovery had been made near the southwestern corner of Block 28, Hunt County School Land Survey A-1, Wise County, Texas. All of Tract 402 in Miller's lease was included within the resulting undefined known geologic structure, effective as of July 15, 1974.

Miller has filed the required \$1,000 bond, but under protest, and concomitantly appealed the known geologic structure ruling on the basis that 'it is arbitrary and capricious to make such a ruling without telling the lessee the why and the wherefore for it, or without giving any reasons at all.' In a subsequent letter

1/ The regulation, 43 CFR 3103.3-2(b)(1), provides in pertinent part:  
payable in advance at the following rates:

"Rentals shall be

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(b) On leases wholly or partly within the known geologic structure of a producing oil gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days' notice to the lessee that all or part of the land is included in such a structure and for each year thereafter prior to a discovery of oil or gas on the leased lands, rental of \$2 per acre or fraction thereof."

2/ The regulation pertaining to bonds, 43 CFR 3104.1(b), provides:

"The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the \$2 per acre annual rental but in no case less than \$1,000 nor more than \$10,000 conditioned on compliance with all the terms of the lease, and such a bond also must be filed when all or any part of the land in a lease issued noncompetitively is included within the limits of a known geologic structure of a producing oil or gas field."

to BLM, Miller stated: "I have already appealed on this matter and did so correctly since it now appears that there was a well on the adjoining lease but it has been plugged and abandoned."

In declaring land within an oil and gas lease to be within a known geologic structure, the Bureau of Land Management relies on the reports of the Geological Survey. The Director, Geological Survey, is the person to whom the Secretary of the Interior has delegated the task of determining the extent of the known geologic structure of producing oil or gas fields. 220 DM 4.1(G).

A "known geologic structure" is technically the trap in which an accumulation of oil or gas has been discovered by drilling and determined to be productive, the limits of which include all acreage that is presumptively productive. 43 CFR 3100.0-5(a).

The fact that there has been a cessation of production or abandonment of wells in a given field is not of itself sufficient to warrant a redefinition of the known geologic structure or the revocation of the classification of the field in the absence of a proper showing that the area does not in fact contain valuable deposits of oil or gas. McClure Oil Company, 4 IBLA 255 (1972). The determination of the boundary lines of the known geologic structure of a producing oil or gas field or of an undefined addition to such field does not guarantee the productiveness of the area so designated. Id.

[1] A determination by the Geological Survey that lands are within an undefined known geologic structure will not be disturbed in the absence of a clear showing that the determination was improperly made. Robert D. Snyder, 13 IBLA 327 (1973).

The unsupported statement by appellant that there is an abandoned well in the vicinity of his lease is not a sufficient showing to warrant disturbing the determination of the Geological Survey that an undefined known geologic structure includes some of the lands within his lease.

[2] Where the Geological Survey has determined that any part of the lands described in a noncompetitive oil and gas lease is within an undefined known geologic structure, the lessee is required to pay increased rental in accordance with 43 CFR 3103.3-2(b)(1), and to furnish a lease bond as required by 43 CFR 3104.1. Robert D. Snyder, supra. BLM correctly notified Miller that the subject lease required a \$1,000 lease bond and that the annual rental commencing with the lease year starting on June 1, 1975, will be at the rate of \$2.00 per acre.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques  
Administrative Judge

We concur:

Frederick Fishman  
Administrative Judge

Anne Poindexter Lewis  
Administrative Judge

